

Executive Summary – Enforcement Matter – Case No. 42270
Georgia-Pacific Gypsum LLC
RN100216209
Docket No. 2011-1418-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Acme Gypsum Facility, 4164 Highway 285, Quanah, Hardeman County

Type of Operation:

Wallboard manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: December 23, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$21,450

Amount Deferred for Expedited Settlement: \$4,290

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$8,580

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$8,580

Name of SEP: Texas PTA - Texas PTA Clean School Buses

Compliance History Classifications:

Person/CN - Average

Site/RN - High

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 42270
Georgia-Pacific Gypsum LLC
RN100216209
Docket No. 2011-1418-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 18, 2011

Date(s) of NOE(s): July 29, 2011

Violation Information

1. Failed to conduct compliance assurance monitoring (“CAM”) at the No. 1 Line Board Stucco Silo Baghouse Stack [Emission Point (“EP”) No. 36]. Specifically, visible emissions monitoring was not conducted from November 29, 2008, the date that the CAM became applicable, through March 27, 2011 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.147(a)(3), Federal Operating Permit No. O-2753 Special Terms and Conditions No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to submit a semi-annual deviation report. Specifically, the Respondent did not report the deviation of the failure to perform CAM monitoring on the No. 1 Line Board Stucco Silo Baghouse Stack (EP-36) from November 17, 2008 through March 27, 2011 until May 23, 2011. The deviation should have been initially reported in the deviation report for the October 24, 2008 through April 23, 2009 reporting period [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), Federal Operating Permit No. O-2753 General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures at the Plant:

- a. On March 28, 2011, implemented procedures to conduct CAM at the No. 1 Line Board Stucco Silo Baghouse Stack; and
- b. On May 23, 2011, submitted a semi-annual deviation report containing a deviation for failure to perform CAM at the No. 1 Line Board Stucco Silo Baghouse Stack from November 17, 2008 through March 27, 2011 to the TCEQ.

Technical Requirements:

The Order will require the Respondent to implement and complete a Supplemental Environmental Project (“SEP”). (See SEP Attachment A)

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 42270
Georgia-Pacific Gypsum LLC
RN100216209
Docket No. 2011-1418-AIR-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: James Nolan, Enforcement Division,
Enforcement Team 4, MC 149, (512) 239-6634; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division,
MC 219, (512) 239-3565

Respondent: Donald M. Strange, Jr., Plant Manager, Georgia-Pacific Gypsum LLC,
P.O. Box 330, Quanah, Texas 79252

Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-1418-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Georgia-Pacific Gypsum LLC
Penalty Amount:	Seventeen Thousand One Hundred Sixty Dollars (\$17,160)
SEP Offset Amount:	Eight Thousand Five Hundred Eighty Dollars (\$8,580)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas PTA - <i>Texas PTA Clean School Buses</i>
Location of SEP:	Texas Air Quality Control Region 210 – Abilene - Wichita Falls

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to **Texas PTA** for the *Texas PTA Clean School Bus Program* as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to reimburse local school districts for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fueled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions from buses by more than 90% below today's level and by reducing hydrocarbons.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Director of Finance
Texas PTA
408 West 11th Street
Austin, Texas 78701

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

Georgia-Pacific Gypsum LLC
Agreed Order - Attachment A

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	1-Aug-2011	Screening	9-Aug-2011	EPA Due	24-Apr-2012
	PCW	8-Sep-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Georgia-Pacific Gypsum LLC		
Reg. Ent. Ref. No.	RN100216209		
Facility/Site Region	3-Abilene	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	42270	No. of Violations	2
Docket No.	2011-1418-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	James Nolan
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$27,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	3.0% Enhancement	Subtotals 2, 3, & 7	\$825
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Notes: Enhancement for one NOV with same/similar violations. Reduction for two Notices of Intended Audit.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$6,875
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$137
Approx. Cost of Compliance \$1,250

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$21,450
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$21,450
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$21,450
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DEFERRAL	20.0% Reduction	Adjustment	-\$4,290
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$17,160
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Screening Date 9-Aug-2011

Docket No. 2011-1418-AIR-E

PCW

Respondent Georgia-Pacific Gypsum LLC

Policy Revision 2 (September 2002)

Case ID No. 42270

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100216209

Media [Statute] Air

Enf. Coordinator James Nolan

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	2	-2%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 3%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one NOV with same/similar violations. Reduction for two Notices of Intended Audit.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 3%

Screening Date 9-Aug-2011

Docket No. 2011-1418-AIR-E

PCW

Respondent Georgia-Pacific Gypsum LLC

Policy Revision 2 (September 2002)

Case ID No. 42270

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100216209

Media [Statute] Air

Enf. Coordinator James Nolan

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.147(a)(3), Federal Operating Permit No. O-2753 Special Terms and Conditions No. 6, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to conduct compliance assurance monitoring ("CAM") at the No. 1 Line Board Stucco Silo Baghouse Stack [Emission Point No. ("EPN") EP-36]. Specifically, visible emissions monitoring was not conducted from November 29, 2008, the date that the CAM requirements became applicable, through March 27, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 10

849 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$25,000

Ten quarterly events are recommended based upon the date that the CAM requirements became applicable (November 29, 2008) to the date of compliance (March 28, 2011).

Good Faith Efforts to Comply

25.0% Reduction

\$6,250

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

Corrective actions were completed on March 28, 2011 and the NOE was issued on July 29, 2011.

Violation Subtotal \$18,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$87

Violation Final Penalty Total \$19,500

This violation Final Assessed Penalty (adjusted for limits) \$19,500

Economic Benefit Worksheet

Respondent Georgia-Pacific Gypsum LLC
Case ID No. 42270
Reg. Ent. Reference No. RN100216209
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$750	29-Nov-2008	28-Mar-2011	2.33	\$87	n/a	\$87
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost for additional management oversight and performing visible emissions monitoring at the No. 1 Line Board Stucco Silo Baghouse Stack. The date required is the date that the CAM requirements became applicable and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$750

TOTAL

\$87

Screening Date 9-Aug-2011

Docket No. 2011-1418-AIR-E

PCW

Respondent Georgia-Pacific Gypsum LLC

Policy Revision 2 (September 2002)

Case ID No. 42270

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100216209

Media [Statute] Air

Enf. Coordinator James Nolan

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), Federal Operating Permit No. O-2753 General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit a semi-annual deviation report. Specifically, the Respondent did not report the deviation of the failure to perform CAM on the No. 1 Line Board Stucco Silo Baghouse Stack (EPN EP-36) from November 17, 2008 through March 27, 2011 until May 23, 2011. The deviation should have been initially reported in the deviation report for the October 24, 2008 through April 23, 2009 reporting period.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 730 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$625

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

Corrective actions were completed on May 23, 2011 and the NOE was issued on July 29, 2011.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$50

Violation Final Penalty Total \$1,950

This violation Final Assessed Penalty (adjusted for limits) \$1,950

Economic Benefit Worksheet

Respondent Georgia-Pacific Gypsum LLC
Case ID No. 42270
Reg. Ent. Reference No. RN100216209
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	23-May-2009	23-May-2011	2.00	\$50	n/a	\$50

Notes for DELAYED costs

Estimated cost to implement procedures designed to ensure semi-annual deviation reports are complete, accurate, and submitted within 30 days after the end of each deviation reporting period. The date required is the date the deviation report was due to be submitted. The final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$50

Compliance History

Customer/Respondent/Owner-Operator:	CN603141128 Georgia-Pacific Gypsum LLC	Classification: AVERAGE	Rating: 1.30
Regulated Entity:	RN100216209 ACME GYPSUM FACILITY	Classification: HIGH	Site Rating: 0.00
ID Number(s):	AIR OPERATING PERMITS AIR OPERATING PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS INDUSTRIAL AND HAZARDOUS WASTE INDUSTRIAL AND HAZARDOUS WASTE POLLUTION PREVENTION PLANNING AIR EMISSIONS INVENTORY	ACCOUNT NUMBER PERMIT AFS NUM PERMIT PERMIT REGISTRATION PERMIT PERMIT REGISTRATION ACCOUNT NUMBER REGISTRATION EPA ID SOLID WASTE REGISTRATION # (SWR) ID NUMBER ACCOUNT NUMBER	HE0006D 2753 4819700002 1735 8860 15754 20851 39531 47814 HE0006D 79117 TXD008011686 32939 P07396 HE0006D
Location:	4164 HIGHWAY 285, QUANAH, TX, 79252		
TCEQ Region:	REGION 03 - ABILENE		
Date Compliance History Prepared:	August 09, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	August 09, 2006 to August 09, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	James Nolan	Phone:	(512) 239-6634

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	12/15/2006	(534117)
2	06/14/2007	(562936)
3	10/06/2007	(594189)
4	07/21/2008	(682380)
5	03/31/2009	(724091)
6	06/30/2009	(749515)

7 08/04/2010 (830148)

8 07/29/2011 (923085)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 07/29/2011 (923085) CN603141128

Self NO Classification Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

30 TAC Chapter 122, SubChapter B 122.147(a)(3)

5C THSC Chapter 382 382.085(b)

Special Condition 6 OP

Description: Georgia-Pacific Gypsum, LLC (GP) failed to conduct daily monitoring as required by Compliance Assurance Monitoring (CAM) for EPs -11, 21-25, 27, 36, 37, 47, 48, 54, 64, 73, and 81 over a two day period.

F. Environmental audits.

Notice of Intent Date: 06/30/2009 (781505)

No DOV Associated

Notice of Intent Date: 08/21/2009 (775682)

No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
GEORGIA-PACIFIC GYPSUM LLC
RN100216209**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-1418-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Georgia-Pacific Gypsum LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wallboard manufacturing plant at 4164 Highway 285 in Quanah, Hardeman County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 3, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-One Thousand Four Hundred Fifty Dollars (\$21,450) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Thousand Five Hundred

Eighty Dollars (\$8,580) of the administrative penalty and Four Thousand Two Hundred Ninety Dollars (\$4,290) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Eight Thousand Five Hundred Eighty Dollars (\$8,580) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. On March 28, 2011, implemented procedures to conduct compliance assurance monitoring ("CAM") at the No. 1 Line Board Stucco Silo Baghouse Stack; and
 - b. On May 23, 2011, submitted a semi-annual deviation report containing a deviation for failure to perform CAM at the No. 1 Line Board Stucco Silo Baghouse Stack from November 17, 2008 through March 27, 2011 to the TCEQ.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to conduct CAM monitoring at the No. 1 Line Board Stucco Silo Baghouse Stack [Emission Point ("EP") No. 36], in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.147(a)(3), Federal Operating Permit No. O-2753 Special Terms and Conditions No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 18, 2011. Specifically, visible emissions monitoring was not conducted

from November 29, 2008, the date that the CAM became applicable, through March 27, 2011.

2. Failed to submit a semi-annual deviation report, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), Federal Operating Permit No. O-2753 General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 18, 2011. Specifically, the Respondent did not report the deviation of the failure to perform CAM monitoring on the No. 1 Line Board Stucco Silo Baghouse Stack (EP-36) from November 17, 2008 through March 27, 2011 until May 23, 2011. The deviation should have been initially reported in the deviation report for the October 24, 2008 through April 23, 2009 reporting period.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Georgia-Pacific Gypsum LLC, Docket No. 2011-1418-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Eight Thousand Five Hundred Eighty Dollars (\$8,580) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God,

war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

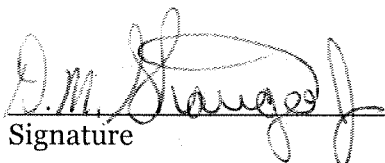
1/20/12
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

1/15/2011
Date

Donald M. Strange Jr.
Name (Printed or typed)
Authorized Representative of
Georgia-Pacific Gypsum LLC

Plant Manager
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2011-1418-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Georgia-Pacific Gypsum LLC
Penalty Amount:	Seventeen Thousand One Hundred Sixty Dollars (\$17,160)
SEP Offset Amount:	Eight Thousand Five Hundred Eighty Dollars (\$8,580)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas PTA - <i>Texas PTA Clean School Buses</i>
Location of SEP:	Texas Air Quality Control Region 210 – Abilene - Wichita Falls

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to **Texas PTA** for the *Texas PTA Clean School Bus Program* as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to reimburse local school districts for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fueled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions from buses by more than 90% below today's level and by reducing hydrocarbons.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Director of Finance
Texas PTA
408 West 11th Street
Austin, Texas 78701

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

Georgia-Pacific Gypsum LLC
Agreed Order - Attachment A

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.